

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT BOWLING GREEN

**FILED**  
JAMES J. VILT, JR. - CLERK

MAY 20 2021

U.S. DISTRICT COURT  
WEST'N. DIST. KENTUCKY

INDICTMENT

NO. 1:21CR-16-6NS  
15 U.S.C. § 1

UNITED STATES OF AMERICA

v.

**BARRY D. DYER**  
**MACKIE E. SHELTON**

The Grand Jury charges:

COUNT 1

*(Antitrust Conspiracy: Bid Rigging)*

At all times relevant to this Indictment:

***Background***

1. On or about April 21, 2018, there was a public auction for multiple tracts of property, including hundreds of acres of farmland and a tract of timber rights, located in the Western District of Kentucky, Allen County, Kentucky ("the Auction"). The purpose of the Auction was for the sellers to sell the property at the highest monetary bid.

2. During a legitimate, competitive public auction of property, participants interested in the property compete against each other by bidding increasingly higher prices. Bidding continues until the auctioneer ends the auction after determining that no participant is willing to bid a higher price than the last participant to place a bid. Until the auction ends, any participant may bid a higher price. After the auction ends, if the bidding has exceeded a reserve amount set

by the seller, the participant who bid the highest price wins title to the property after paying that price, potentially adjusted by fees, to the seller.

### *Defendants and Co-Conspirators*

3. Defendants **BARRY D. DYER** and **MACKIE E. SHELTON** were participants in the Auction. **DYER** and **SHELTON** were real-estate investors who regularly participated in public auctions. **DYER** and **SHELTON** were licensed principal auctioneers in Kentucky and Tennessee and licensed real-estate brokers in Kentucky.

4. Individuals 1 and 2 were farmers who participated in the Auction. They were interested in purchasing farmland to farm it.

5. Individuals not made defendants in this Indictment participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

### *Description of the Conspiracy*

6. Beginning on or about April 21, 2018, and continuing until at least in or about June 2018, in the Western District of Kentucky, Defendants **DYER** and **SHELTON** and co-conspirators known and unknown to the Grand Jury, including Individuals 1 and 2, entered into and engaged in a conspiracy to suppress and eliminate competition by rigging bids for property for sale at the Auction. The conspiracy engaged in by Defendants and their co-conspirators was a *per se* unlawful, and thus unreasonable, restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

### *Means and Methods of the Conspiracy*

7. For the purpose of forming and carrying out the charged conspiracy, Defendants and their co-conspirators, including Individuals 1 and 2, among other things, did the following:

- a. Defendants demanded a \$40,000 payoff from Individuals 1 and 2 in exchange for an agreement to stop bidding against Individuals 1 and 2 at the Auction;
- b. Despite being warned by auction staff not to engage in the conduct, Individuals 1 and 2 agreed to make the \$40,000 payoff to Defendants, and, in exchange, Defendants agreed to stop bidding and let Individuals 1 and 2 win the Auction;
- c. Individuals 1 and 2 placed a final bid while Defendants stopped bidding;
- d. Individuals 1 and 2 won the Auction at a non-competitive, artificially suppressed price;
- e. After winning the Auction, Individuals 1 and 2 made the agreed \$40,000 payoff by writing checks to Defendants, which Defendants accepted;
- f. To complete the purchase of the auctioned property at the non-competitive, artificially suppressed price, Individuals 1 and 2 obtained a mortgage and title insurance; and
- g. Defendants waited until in or about June 2018, when the sale of the auctioned property was completed, to deposit the checks from Individuals 1 and 2 totaling \$40,000.

#### *Trade and Commerce*

8. The Auction and the activities of Defendants and their co-conspirators that are the subject of this Indictment were within the flow of, and substantially affected, interstate trade and commerce. For example, among other things:
  - a. Defendants were real-estate investors engaging in ongoing interstate business activities related to auctions and real-estate investments, and they participated in the Auction as part of those ongoing activities;

b. Individuals 1 and 2 were farmers engaged in ongoing interstate business activities related to acquiring and cultivating farmland to produce and sell agricultural products in interstate markets, and they participated in the Auction as part of those ongoing activities;

c. The \$40,000 bid-rigging payoff to Defendants consisted of two \$20,000 checks. The first was a \$20,000 check from Individual 1 to **DYER** drawn on, and deposited to, a federally chartered national bank insured by the Federal Deposit Insurance Corporation (“FDIC”). The second was a \$20,000 check from Individual 2 to **SHELTON** drawn on a credit line from Farm Credit Mid-America, payable through a federally chartered national bank insured by the FDIC, and deposited to a bank insured by the FDIC. Farm Credit Mid-America is a multistate component of the Farm Credit System, a national network of cooperative financial institutions established by the federal government, governed by the Farm Credit Acts, regulated by the Farm Credit Administration, and insured by the Farm Credit System Insurance Corporation;

d. Individuals 1 and 2 financed the property purchase resulting from the rigged Auction with a substantial mortgage from Farm Credit Mid-America that was tied to the non-competitive, artificially suppressed purchase price of the property;

e. In connection with the mortgage, Individuals 1 and 2 also acquired cooperative shares of Farm Credit Mid-America in a substantial amount tied to the non-competitive, artificially suppressed purchase price of the property;

f. To complete the sale of the auctioned property, Individuals 1 and 2 purchased title insurance from an interstate insurance company and transmitted, and caused to be transmitted, funds outside Kentucky; and

g. Substantial proceeds of the non-competitive, artificially suppressed purchase price of the property were transmitted to a beneficiary outside Kentucky.

In violation of Title 15, United States Code, Section 1.

A TRUE BILL.

**REDACTED**

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FOREPERSON

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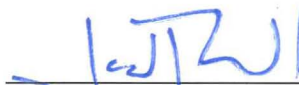
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